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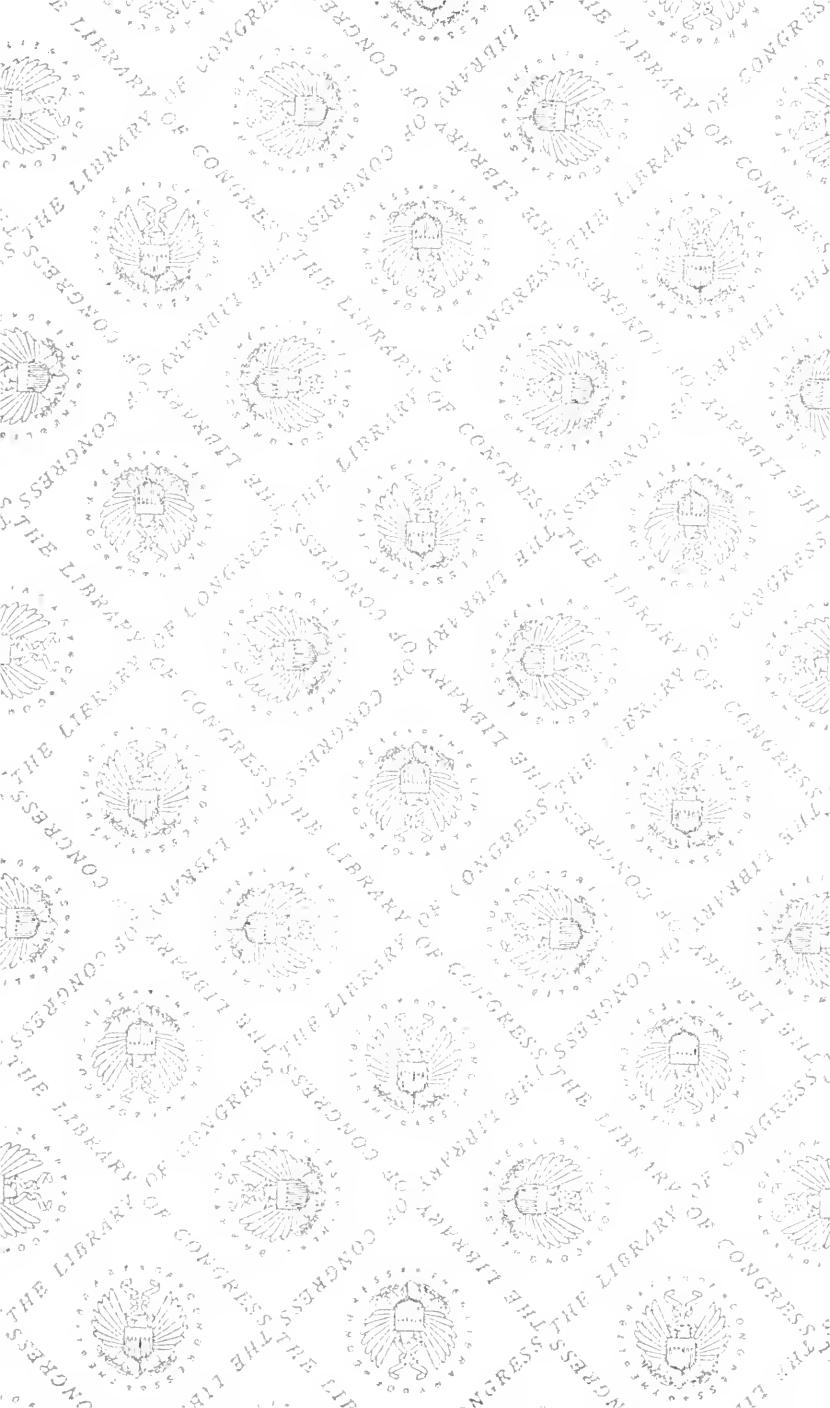
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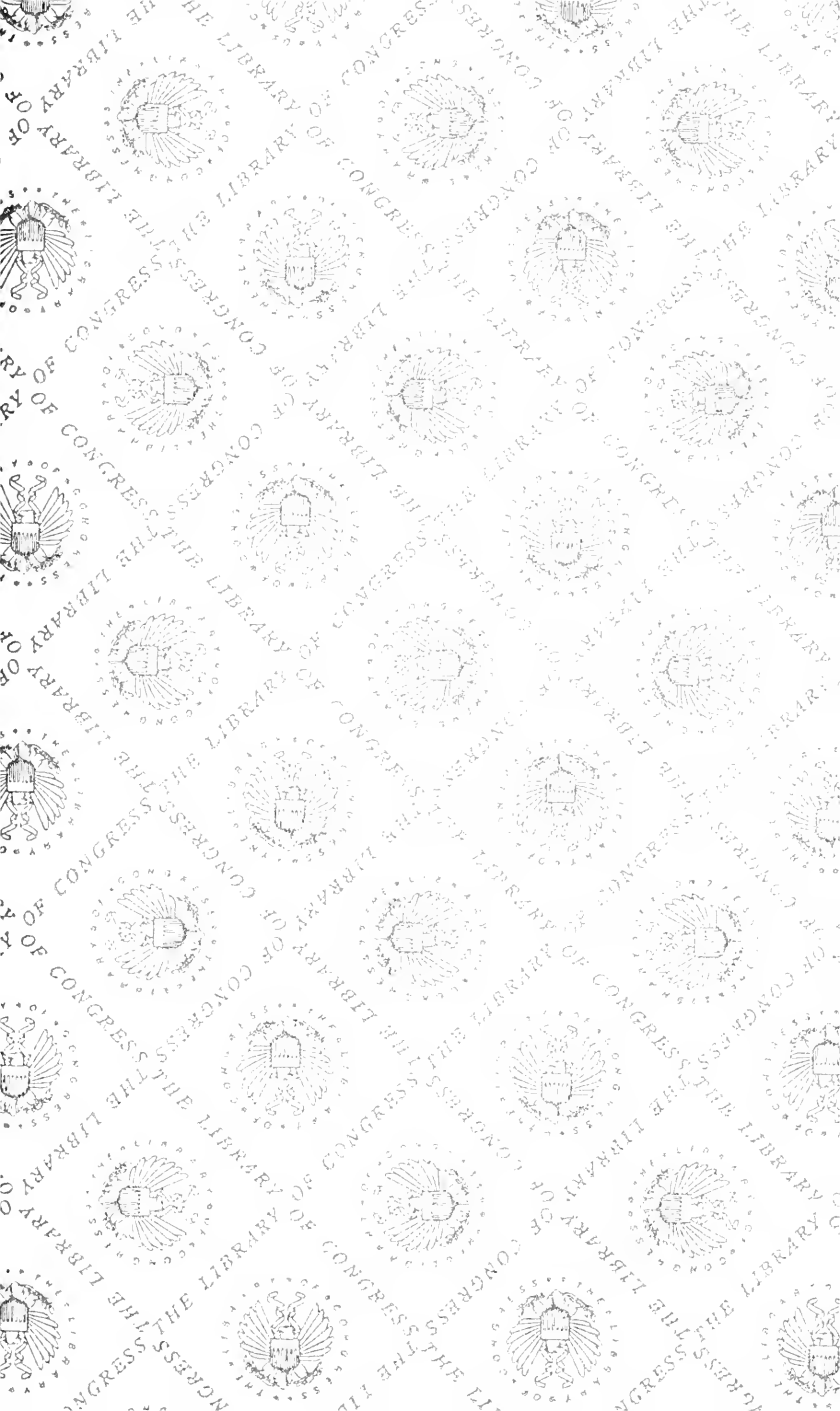
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REMARKS
ON
THE EMBARGO LAW;
IN WHICH ITS
CONSTITUTIONALITY,
AS WELL AS ITS
EFFECTS ON THE FOREIGN AND DOMESTIC RELATIONS
OF THE
UNITED STATES,
ARE CONSIDERED.
CONCLUDING WITH A SUMMARY VIEW OF THE
PRESENT ADMINISTRATION.


BY CIVIS.


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1808.

REMARKS

ON THE

EMBARGO LAW.

SOME of those deplorable evils which the conflicting powers of Europe experience, have at length reached the United States. The cloud which has so long darkened the American horizon, now threatens destruction to the American people.

We have arrived at a crisis which requires not only the strongest wisdom of man, but even the aid of the almighty hand for our preservation.

During a contention for dominion, rapine, and conquest unparalleled in the annals of time—in a state of warfare, which has shaken the foundations of the social compact, we had no reason to expect a sacred observance of our neutral rights, whilst they were unprotected by our administration. History affords us no example of such disinterested justice of belligerents. In the course of political events, even treaties have been of short duration, where power to enforce, or interest to secure them, were wanting.

The sickly and languid state of our government for some years past, her destitution of energy, the natural consequence of that condition, rendered no prophetic art necessary to foresee our present national misfortunes. That the American nation, clothed in the national sanctity of her neutral rights, while

steering her course amid the rocks and quicksands of a Scylla and a Charybdis,* would sooner or later meet with some impediment in her commercial career, was an event rendered more than probable, by the aspect of the times. For this, therefore, our rulers ought to have been prepared. The administration unwisely and vainly supposing themselves able to preserve our neutral rights by treaties and negotiation, have suffered themselves to be lulled into a fatal security, till at length an *actual* experience has taught them the old and well known maxim, "*leges inter arma silent.*"

Our political system, with reference to our foreign relations, has been so relaxed and feeble, that even although we may have made some commercial gains by our pacific course, it may be difficult to say whether they can in any case counterbalance the loss of national dignity. Our administration, however, at length roused from the stupor of so degrading a policy by blockading decrees, have thought proper to resort to retaliation. In their efforts to cause the rescinding of those decrees, and to bring the belligerent powers to a state of humiliation and repentance, they have blockaded the United States from a commercial intercourse with the whole world, and the whole world from the United States.

How far this measure has been constitutional or politic is now submitted to the consideration of the American people.

The act laying an embargo is a permanent act, because there is no fixed temporal limit to its operation. Upon this point there can be no reasonable controversy.

The first natural question for discussion of course is, whether the power to impose a *permanent* embargo has been constitutionally assumed by Congress. If

* Dextrum Scylla latus, lævum implacata Charibdis,
Obsidet :

this power is at all given to congress, it must be by the constitution of the United States. It being declared in convention, and such being the unequivocal spirit of our government, "That all power emanates from the people ; that powers not delegated by the constitution are still inherent in them ; and all powers granted by them are expressly set forth in the constitution," I then ask by what article or section of the constitution is this power delegated. It is not *expressly* given by any clause, if it is at all given ; therefore, it must be by implication. And those sections of the constitution which regulate war and commerce, are the only sections which can in any the most distant manner authorise such an inference.

The constitutionality of this assumption of power cannot be maintained under those clauses of the constitution which regulate war, because, in contemplation of the constitution, and of the laws of nations, we cannot be considered in a state of warfare, without an actual declaration of war, a circumstance which cannot be here alleged, because it has not occurred. Whatever extraordinary powers, therefore, congress might have in time of war, are immaterial, because they arise out of the war, and, therefore, exist not in time of peace.

With respect to the other sections, all the power granted by them to congress, is simply a power to "*regulate*" the commerce of the United States with foreign nations. Those who contend for the constitutionality of the conduct of congress in this particular, find the delegation of the requisite power in the term "*regulate*." I would, in the first place, ask, what is meant in the English language by the word *regulate* ? According to the most ordinary and approved acceptation of the word, it is to adjust by rule ; and in this sense the term is well understood, whether applied to mechanics, or to civil polity. Thus, when we speak of regulating a clock or watch,

we do not mean to destroy the motions of the machine, but to correct and improve them. When we speak of regulating church and state, we do not intend to extirpate, but to govern them by fixed rules and ordinances. And when we speak of regulating our own system, we do not, certainly, mean to cause a suspension of all animal functions : from such a species of *regulating*, may heaven preserve us ! The convention, therefore, in granting to congress the power of regulating commerce with foreign nations, intended no more by that word "*regulate*" than the simple power of keeping it in order, with which power, the laying a *temporary* embargo might not be inconsistent. And farther, had it been the intention of the convention to grant such extensive powers to congress, can we imagine that they would not have expressly designated them, without leaving them to be implied, particularly when powers, in their nature infinitely less important to the general weal, are in that instrument *expressly* granted ? It is evident, then, that this power, thus assumed by congress, is not expressly warranted by any clause or section of the constitution, nor by any correct inference which can be deduced from the same. There is not a clause nor a section in the whole instrument declaring such a power, nor is there a clause from whence such an inference can be drawn. From the constitutional provisions regulating war, such a power cannot be inferred, because no declaration of war exists. Nor can it be inferred from those regulating commerce, without an actual perversion of the English language, and a palpable contradiction of the intention of the convention. That convention, whose great object was the happiness of the people, can no more be deemed to have intended to grant to congress the power of passing a law paralysing the commerce of the United States, than a skilful physician, whose feelings were trem-

blingly alive for the safety of his patient, could be deemed to intend a suspension or dissolution of his animal functions. In a word, if the administration really think that they find the powers they have assumed, in some magical interpretation of the term "*regulate*," their situation, in point of wise construction, is very similar to that of a friend of mine, who being indisposed, sent for his physician, in order to consult him about his disorder. The physician, after feeling his pulse, told him he lived too *low*; that in future he must live higher, in order to recover his health. My friend, resolved to comply strictly with the instructions of his physician, ascended to the attic story, where the physician found him, on repeating his visit. Not being able to account for this, he asked him very abruptly, what the *devil* raised him so high? My friend very seriously answered him, that he had only acted in conformity to his directions.

From all these observations, the conclusion is irresistible, that congress has exercised a power which the people of these United States never delegated to them, and, therefore, their conduct in assuming such power, has been unconstitutional. But even if the power to lay a permanent embargo had been expressly granted to congress, do not the very provisions of the act which they have passed invade the constitution? As it is not my intention to wade section by section through this extraordinary law, I shall content myself with considering one prominent clause. How stand the constitutional regulations of our internal commerce, under the operation of this law? Let facts speak for themselves. The constitution declares that "no tax or duty shall be laid on articles exported from any state, no preference shall be given by any regulation of commerce or revenue, to the ports of one state over those of another, nor shall vessels bound to or from one state, be

obliged to enter, *clear*, or pay duties in another.” Is there no violation of this article of the constitution? Does the embargo law throw no obstruction in the way of a communication between the individual states? Can a vessel sail from one state to another, without entrance or clearance, and in doing this, will she be subject to no interruption from the embargo law? Will she not be subject to a forfeiture to the United States? What is the language of the embargo law on this subject?

“That during the continuance of the act laying an embargo on all ships and vessels in the ports and harbours of the United States, no vessel, of any description whatever, and wherever bound, whose employment is confined to the navigation of bays, sounds, rivers and lakes, within the jurisdiction of the United States, (packets, ferry-boats, and vessels exempted from the obligation of giving any bond whatever only excepted) shall be allowed to depart from any district of the United States, without having previously obtained a clearance, nor until the master or commander shall have delivered to the collector or surveyor of the port of departure, a manifest of the whole cargo on board, including articles of domestic growth or manufacture, as well as foreign merchandise. And it shall also be the duty of the owners, agents, or master of every such vessel, to produce, within two months thereafter, to the collector of the district from which the vessel departed, a certificate of the landing of the whole of such cargo, in a port of the United States, within the bays, sounds, rivers, or lakes to which the navigation of such vessel is confined, signed by the collector or surveyor of the port where the cargo shall be landed.”

In viewing the above section of the act, it is difficult to determine which clause or sentence conveys most force, which most calculated to clog and

impede that free and uncontroled communication between the individual states, so solemnly secured in convention, and so emphatically guaranteed by the imperative language of the constitution.

Before I leave the topic of unconstitutionality, I must beg leave to offer some few remarks, on an act which must be considered a component part of this general system—I mean the act authorising the president to suspend the operation of the embargo, in case certain contingencies should take place abroad. This branch of the system is, I conceive, not a little objectionable, on constitutional grounds. We here behold congress transferring their powers to the president of the United States. And this, I must confess, is the first time I have ever heard of a constitutional delegation of power from one branch of the government to another. Nay, I had always thought that it was the true spirit of our constitution, to keep the great departments of our state distinct.

I now ask, does not congress derive all its powers from the people? Are not congress, in fact, the trustees of the people, as to the powers granted to them? Does not all power, in this government, flow from the people? Are not these our civil and constitutional axioms? If this delegation of power from congress to the president is constitutional, the right must flow from the people through the medium of the constitution. Is there a section in that instrument which warrants this delegation? On the contrary, are not the powers of the different departments of government well defined, and explicitly circumscribed by constitutional barriers? Was it not the policy of the convention to keep them apart? Are they not founded in personal confidence and trust? If so, then evidently congress had no power to grant, nor the president to receive. In this case, the people hold the fee-simple. Congress are mercenaries in trust, and the president *quoad hoc*

labours under all the disabilities of an alien. *He cannot take.* In fact and in deed, this delegation of power from congress to the president, is a nullity. The right in congress to grant ought to have been previously derived from the people, through the medium of the constitution.

If I am correct in the principle that the annulling, suspending or repealing of a law is as much an exercise of legislative power as the original creation of it; then it follows conclusively, that by this statute, the executive and legislative powers of our government are *pro hac vice* united in the president, in direct violation of the intention of the convention, and contrary to the express letter and manifest spirit of the constitution of the United States.

In the reign of Henry VIII. when an infatuated Parliament gave to the proclamations of that monarch, the force of laws, and thus invested their executive with legislative powers, what was the consequence of this gross invasion of their Magna Charta? "The finger of the prerogative became heavier than the loins of the law." The people soon perceived that the arm of despotism would become too strong for their liberties; they successfully resisted the obnoxious edict, and had not a speedy repeal ensued, the throne of the monarch would have shaken to its foundation. What is the difference between the royal investing statute of Henry VIII. and the investing act of Congress? Simply this, that the one enlarges the prerogative of the King, the other that of the President of the United States.

Upon this subject let us hear the language used by the great father of his country in his farewell address to the American people: "It is important that the habit of thinking in a free country, should inspire caution, in those intrusted with its administration, to confine

themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions by others, has been evinced by experiments ancient and modern ; some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If in the opinion of the people, the distribution or modification of the constitutional powers, be in any particular wrong, let it be corrected by an amendment in the way which the constitution designates. But let there be no change by usurpation ; for though this in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil, any partial or transient benefit which the use can at any time yield."

Nor can I close this topic of constitutionality, more appropriately than in the language of a man, alas ! no more, whose memory must be dear to every American. Of a man whose life was devoted to his country, in the field, in the cabinet, and in the forum—

A man, who early embarked in the cause, was never absent from the tent till the mighty work was achieved, the life, the soul, and companion of Washington—

A man, who was the most active in the councils of the nation, in forming the constitution ; whom no weariness could subdue, no difficulties discourage, till, by his mighty strength, he bore down that hydra of anti-federalism, which has lately risen up with so many Gorgon heads—

A man whom a public treasury could not tempt,* whilst in the discharge of a public trust—

A man, whose eloquence ever derived a manly force from the benedictions of the widow and the orphan—

A man, whose fame will ever shine bright in the annals of America. In firmness as a patriot, in talents and virtue as a statesman, in honesty and fidelity as a public servant, in brilliancy as an advocate, and with all his qualities combined, in greatness and goodness unrivalled as a man—

I mean, in the language of Hamilton, when seated in the convention where this work was formed to bind us and posterity. In the flow of his eloquence, addressing himself to the members of the same, he said : “ The pillar of our constitution is laid, on which the mighty edifice is to be raised, and sacrilegious be the hand which dares to defile it.” In vain then has he laboured, in vain toiled, in vain admonished, in raising this sacred work for the happiness of the people and posterity, unless sacredly preserved from the base innovation, which has already struck it to its centre, and now threatens it with destruction.

It is extremely common to find some well meaning men passing over all these constitutional difficulties, and justifying this assumption of power, by the advantages supposed to have resulted, or about to re-

* “ *Incorrupta fides—nudaque veritas
Quando ullum invenient parem ?
Multis ille quidem flebilis occidit.*”

sult from it. Waving all discussion of the pernicious tendency of such a justificatory spirit, let us inquire into its operations at home and abroad. I enter into this investigation, not because I deem it proper for the administration to draw any justification for unconstitutional conduct, from such extrinsic circumstances, but simply to show that there is not the slightest palliation for their conduct. In the first place, then, what has been the effect of this measure on the United States ?

From a pleasing prospect of wealth, happiness and prosperity, confined to no place, to no order or description of persons existing, equally vivid in every city, village, and hamlet in the United States, created by the powerful operations of a natural spirit of enterprise, which no hazard however dangerous, could daunt, no undertaking however bold, could retard, no prospects however gloomy, could discourage. How distressing, how humiliating the change ! We now behold industry shackled, enterprise broken-hearted, and a rapid hectic consuming the vitals of the nation.

Our *dock-yards*, affording a melancholy picture of dismantled shipping, a prey to worms. Our *cities*, no longer resounding with the busy hum of industry, present stores and ware-houses closed, and unemployed. The *country*, in vain blessed with fertility by the bounteous hand of heaven, exhibits to our view the gloomy prospect of our crops in a perishable condition.

The proud *sailor*, no longer able to procure employment under his own flag, is obliged to solicit bread in a foreign country ; a country too, which he otherwise never would have condescended to serve.

The *labourer* in vain seeks, solicits, and begs employment in our public streets, and ultimately sustains life by the hand of charity.

The *mechanic*, having lost much of his custom, no longer able to pay his rent, and scarcely to provide for the daily wants of his family, stands discouraged in his shop.

The *farmer* beholds with grief and lamentation his crop rotting in his granary ;

Whilst the *merchant*, tremblingly alive for his credit, his engagements, his fortune, his all, wanders from his counting-house, in order to forget his cares, consoling himself that every arrival will terminate his misfortunes.

This is but an imperfect picture of the effects and consequences of the embargo at home. It is a picture, the colouring of which, unfortunately, almost every man can increase, from his own experience.

With respect to its effects abroad :—Has it brought the belligerent powers to a state of humiliation and repentance ? Has it restored our degraded and fallen country to its pristine dignity ? Has it obtained reparation for the spoliations committed on our commerce ? Has it brought the conflicting powers of Europe to the presidential feet ? Has it rescinded the orders in council ? Where has it made any impression, except on the people of the United States ? We have been told of the discontented petitions it would give rise to in England, and of the insurrections and national bankruptcy that it would there necessarily produce : We have been told of the inevitable starvation of the West-Indies, and of their consequent remonstrances against the obnoxious orders. Time has proved to us that these were flights of a warm imagination, pictures formed in the airy loom of fancy. We find, therefore, that the present system of things cannot be supported on any ground. Constitutionality, and even policy, is against it ; so that the embargo, as a national system of protection or aggression, must

be relinquished, even by those who, drawing their ideas of political justice from the school of Machiavel, hold it an undeniable truth, that the end justifies the means. For, viewing the subject on the ground of mere interested policy, self-interest herself is a foe to the embargo.

We all know the nature and extent of the hazard to which the belligerent decrees exposed us abroad. We have all felt, and therefore we are all able to judge of the nature and extent of the actual evils which we have experienced from the embargo at home. We all know the value of actual commerce, that great promoter of national wealth, industry and morality. We all know the futility and absurdity of a national system of passive commerce. Taking into consideration, therefore, the value of commerce, on the one hand, and the evils of the embargo, on the other, is it not better to expose the surplus of our produce to these novel belligerent risks, formidable as they are, when, by possibility, our merchants may escape them by their energy and activity, than to suffer it to decay and rot before our eyes? Is it wise and prudent to punish ourselves; without any prospect of punishing our enemies? Is it wise to continue an evil, if it produces ruin at home, without the slightest prospect of doing any good abroad? In a word, can any Machiavelian seriously contend, that any system of measures can be wisely continued, when the public voice is against it?

Wherever a free course has been given to the public sentiment, the public voice has been raised against this pernicious act. What has been the language of Massachusetts, a state unrivalled throughout the union for commercial enterprise, a state whose voice, since the days of the revolution, has always been the *true voice of America*. Look to her remonstrances; they are not equivocal.

“Lift the embargo,” says General Eaton, in his address to his townsmen, “leave commerce to shift for itself, and in spite of the imperial decrees, we have open a vast field for the display of this enterprise. We have the British ports every where; Portugal and Spain; the islands of Minorca and Majorca; the whole of the Turkish coast up the Mediterranean, except Algiers; the entire western and southern coasts of Africa; the borders of the Red Sea, India and China; Madeira, Teneriffe, and the Azores; most of the rich islands of the West-Indies; the Spanish and Portuguese coasts of South America; the whole American coasts of the pacific ocean; and, which is more important, our own coasts and our own fisheries, comprising more than four-fifths of the commercial coasts of the four continents, and productive islands of the seas: Shall we forego all the advantages which could be derived from these sources of wealth, from the decrees of an adventurer, who has grown potent from incident, and whom the justice of heaven will throw back to impotence on his native island of rocks and sterility; a mighty man of valour, who dares not send a bomb-ketch to sea through the dread of his enemy. Such humility is too degrading to the feelings of brave men and honest Americans.”

From these several views of this subject, I do not think it possible that any class of men can continue to advocate the embargo, even as a hostile measure.

What must be done? This becomes a truly important and momentous question. It was easy for a *precipitate* administration to plunge us into our present difficulties, but it must be a work of *deliberation* to extricate us.*

* ————— facilis descensus Averni :
Noctes atque dies patet atri janua Ditis ;
Sed revocare gradum, superasque evadere ad auras,
Hoc opus, hic labor est.

Gloomy as our present prospects are, I am no advocate for submission. Our prostrate government, administered by feeble hands, no longer authorises us to use strong measures. Our arm of strength is palsied. It is fortunate for us, that by retracing our steps, we can assume an attitude, which will not carry us beyond the bounds of our *national economy and prudence*, which will still partially retrieve the fallen dignity of the nation, be perfectly consistent with sound policy, and supported even by the rigid dictates of justice.

Let the embargo be raised, and let the nation do that in the end, which ought to have been done in the beginning, *chastise the first offender*.

Upon the policy and justice of this measure, I will offer a few remarks.

Upon examining the measures of both the belligerent powers, we find that they are actuated by mere individual policy. The inquiry on their parts, previous to the adoption of a measure, is not, will this measure be consistent with the strict rights of national neutrality?—but, will it be beneficial to us? We, therefore, are justified by the conduct of our opponents, in adopting towards them the same principle of action.*

The question, then, on the score of policy, is simply this: Of which of these belligerent powers can we make the best use?

On this subject of policy, the injuries we have sustained from both nations, must be placed out of view. We must, for the sake of the argument, consider the aggressions of both as equal. And, in fact, it is almost in vain to go into a comparative view of injuries sustained, without the means or prospect of having them redressed, in as much as

* *Tros Tyriusque mihi nullo discrimine agetur*

such an investigation can in no degree aid us in the removal of our present national evils.

If, indeed, the United States could command a maritime power, equal to the protection of their neutral rights, or if the belligerent powers could not continue the war without our aid ;—in short, if we were so essential to their political prosperity, or physical existence, either in turning the scale of power, or in relieving their wants, such an examination would become important.

But now we are to inquire on which side our scale of *interest* preponderates, and this investigation must be guided by the hopes and fears inseparable from the policy of nations. People of the United States, what have you to hope or fear from Great Britain ? Are there any of your essential interests which she can promote or destroy ? She is the mistress of the ocean ; and, however galling it may be to national pride, we, in common with all the other maritime powers, are compelled to confess, that it is at her license that we navigate the high seas. If our commerce, then, is dear to us ; if those agricultural interests dependent on commerce are essentially important to our existence as a nation ; if all these can be annihilated by Great Britain, our policy must, certainly, consist in making such use of that nation, as may secure those interests. Particularly, as there is no other foreign power capable of checking her in her career of maritime domination. For what have you to hope from France ? Will you form an alliance with her, according to the manifest wishes of the administration ? What benefit can you reap from it ? Can she protect your commerce, and support your agricultural interests ? Can she throw a barrier round your neutral rights ? Can you trust to the faith or justice of a man, whose conduct has

been marked with so much base perfidy* to his former ally, the ill-fated monarch of Spain, and his unfortunate family, who, not content with exhausting that kingdom of its treasures, attempts now to reduce it to a province, despoiling the inhabitants of their goods, robbing and defiling their churches, and with his hands reeking in blood, seeks the destruction and extirpation, not only of the Bourbon race, but of that brave and magnanimous nation, so celebrated in the annals of history, both ancient and modern.† That same nation, who were once so

* *Hic niger est caveto Romane.*

*Non, mihi si linguæ centum sint, oraque centum,
Ferreæ vox, omnes scelerum comprehendere formas.*

† In the year 133, before the Christian æra, when Scipio Æmilianus, the destroyer of Carthage, was sent against the Numantines, in order to reduce them, against this renowned commander, the Numantines, with all their valour, were not able to cope. Scipio, having with the utmost care introduced strict discipline among his troops, and reformed the abuses which his predecessors had suffered in their armies, by degrees brought the Romans to face their enemies, which at his arrival they had absolutely refused to do, having then ravaged all the country round about the town. It was soon blocked up on all sides, and the inhabitants began to feel the want of provisions. At last they resolved to make one desperate attempt for their liberty, and either to break through their enemies, or perish in the attempt. With this view, they marched out in good order by two gates, and fell upon the works of the Romans with the utmost fury. The Romans, unable to stand this desperate shock, were on the point of yielding; but Scipio, hastening to their aid with no fewer than 20,000 men, the unhappy Numantines were at last driven into the city, where they sustained for a little longer the miseries of famine. Finding at last, however, that it was altogether impossible to hold out, it was resolved by the majority to submit to the pleasure of the Roman commander; but this resolution was not universally approved. Many shut themselves up in their houses, and died of hunger,

illustrious, for heroic opposition to the Roman arms, for their valour against the formidable Moors, against the French monarch of the fifteenth century, and who now stand up, supported by nature's cause and nature's God, in the defence of their rights and their altars, against the usurpation of the Corsican tyrant, as if heaven reserved for them only, the glory of his subjugation.

By whom was the first act of hostility committed against the United States? was it by the French or the British? Certainly by the French, as appears by the dates of the blockading decrees.* The first

while even those who had agreed to surrender repented their offer, and setting fire to their houses, perished in the flames with their wives and children, so that not a single Numantine was left alive to grace the triumph of the conqueror of Carthage.

A signal victory was obtained over the Moors by the Spanish nation, on the borders of Andalusia, on the 16th of July, 1212, and the anniversary is still celebrated at Toledo.

In the beginning of the sixteenth century, Francis I. of France was defeated and taken prisoner at Pavia, by Charles V. of Spain, by which victory all Italy was abandoned by the French.

* For the satisfaction of the reader, the French and English decrees are here inserted, according to the order of time in which they were published :

IMPERIAL DECREE,

DECLARING THE BRITISH ISLES IN A STATE OF BLOCKADE.

Imperial Camp, Berlin, November 21, 1806.

Napoleon, Emperor of the French, and King of Italy—considering :—

1. That England does not admit the right of nations, as universally acknowledged by all civilized people :—

2. That she declares as an enemy, every individual belonging to an enemy state, and in consequence, makes prisoners of war, not only the crews of armed vessels, but those also of merchant vessels, and even the supercargoes of the same :—

3. That she extends or applies to merchant vessels, to articles of commerce, and to the property of individuals, the right of conquest, which can only be applied or extended to what belongs to an enemy state :—

4. That she extends to ports not fortified, to the harbours and mouths of rivers, the right of blockade, which, according to reason and the usage of civilized nations, is applicable only to strong or fortified ports :—

hostile decree against the commerce of the United States was what is called the Berlin decree, notwithstanding the allegation to the contrary, and was passed on the 21st of November, 1806; nor was the

That she declares blockaded, places before which she has not a single vessel of war; although a place ought not to be considered blockaded, but when it is so invested as that no approach to it can be made without imminent hazard;—that she declares even places blockaded, which her united forces would be incapable of doing, such as entire coasts, and a whole empire:—

5. That this unequalled abuse of the right of blockade, has no other object, than to interrupt the communications of different nations, and to raise the commerce and industry of England upon the ruin of those of the continent:—

6. That this being the evident design of England, whoever deals on the continent in English merchandise, favours that design, and becomes an accomplice:—

7. That this conduct in England, (worthy only of the first ages of barbarism) has benefited her to the detriment of other nations:—

8. That it being right to oppose to an enemy the same arms she makes use of to combat as she does; when all ideas of justice, and every liberal sentiment, (the result of civilization among men) are disregarded:—

We have resolved to enforce against England the usages which she has consecrated in her maritime code.

The present decree shall be considered as the fundamental law of the empire, until England has acknowledged that the right of war is the same on land as at sea, that it cannot be extended to any private property whatever, nor to persons who are not military, and until the right of blockade be restrained to fortified places actually invested by competent forces.

Art. 1. The British Islands are in a state of blockade.

2. All commerce and correspondence with them is prohibited. Consequently, all letters or packets, written in England, or to an Englishman, written in the English language, shall not be dispatched from the post-offices, and shall be seized.

3. Every individual, a subject of Great Britain, of whatever rank or condition, who is found in countries occupied by our troops, or those of our allies, shall be made a prisoner of war.

4. Every warehouse, all merchandise or property whatever, belonging to an Englishman, are declared to be good prize.

5. The commerce of English merchandise is prohibited. All merchandise belonging to England, or coming from her manufactories and colonies, are declared to be good prize.

6. One half of the proceeds of merchandise declared to be good prize, and forfeited as in the preceding articles, shall go to indemnify merchants who have suffered losses by the English cruisers.

7. No vessel coming directly from England or her colonies, or having been there since the publication of this decree, shall be admitted into any port.

8. Every vessel, that by a false declaration contravenes the foregoing disposition, shall be seized; and the ship and cargo confiscated as English property.

hostile example followed by the British till the 11th of November, 1807, an interval of nearly 12 months. Here it is not a little remarkable, that notwithstanding a continuation of French aggressions and French

[9. This article states, that the councils of prizes at Paris and at Milan, shall have recognizance of what may arise in the empire, and in Italy, under the present article.]

10. Communications of this decree shall be made to the kings of Spain, Naples, Holland, Etruria, and to our other allies ; whose subjects, as well as ours, are victims of the injustice and barbarity of the English maritime code.

11. Our ministers of foreign relations, &c. &c. are charged with the execution of the present decree.

(Signed)

NAPOLEON.

By the Emperor,

H. B. MARET, Secretary of State.

BRITISH ORDERS IN COUNCIL.

At the court at the Queen's Palace, the 11th of November, 1807, present, the King's most excellent Majesty in Council.

Whereas certain orders, establishing an unprecedented system of warfare against this kingdom, and aimed especially at the destruction of its commerce and resources, were, some time since, issued by the Government of France, by which "the British islands were declared to be in a state of blockade," thereby subjecting to capture and condemnation, all vessels with their cargoes, which should continue to trade with his Majesty's dominions :

And whereas, by the same order, "all trading in English merchandise is prohibited, and every article of merchandise belonging to England, or coming from her colonies, or of her manufacture, is declared lawful prize."

And whereas the nations in alliance with France, and under her controul, were required to give, and have given, and do give effect to such orders :

And whereas his Majesty's order of the 7th of January last, has not answered the desired purpose, either of compelling the enemy to recall those orders, or of inducing neutral nations to interpose, with effect, to obtain their revocation, but, on the contrary, the same have been recently enforced with increased rigour :

And whereas his Majesty, under these circumstances, finds himself compelled to take further measures for asserting and vindicating his just rights, and for supporting that maritime power which the exertions and valour of his people have, under the blessing of Providence, enabled him to establish and maintain ; and the maintenance of which is not more essential to the safety and prosperity of his Majesty's dominions than it is to the protection of such States as still retain their independence, and to the general interest and happiness of mankind :

spoliations on our commerce for the period of 12 months, no measures of defence, no acts of retaliation, no embargo law was passed. I ask, then, from such degrading submission, what is to be in-

His Majesty is therefore pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that all the ports and places of France and her allies, or of any other country at war with his Majesty, and all other ports or places in Europe, from which, although not at war with his Majesty, the British flag is excluded, and all ports and places in the colonies belonging to his Majesty's enemies, shall, from henceforth, be subject to the same restrictions in point of trade and navigation, with the exceptions hereafter mentioned, as if the same were actually blockaded by his majesty's naval forces in the most strict and rigorous manner : And it is hereby further ordered and declared, that all trade in articles which are of the produce or manufacture of the said countries or colonies, shall be deemed and considered to be unlawful ; and that every vessel trading from or to the said countries or colonies, together with all goods and merchandise on board, and all articles of the produce or manufacture of the said countries or colonies, shall be captured, and condemned as prize to the captors.

But although his Majesty would be fully justified, by the circumstances and considerations above recited, in establishing such system of restrictions with respect to all the countries and colonies of enemies, without exception or qualification ; yet his Majesty, being nevertheless desirous not to subject neutrals to any greater inconvenience than is absolutely inseparable from the carrying into effect his Majesty's just determination to counteract the designs of his enemies, and to retort upon his enemies themselves the consequences of their own violence and injustice ; and being yet willing to hope that it may be possible (consistently with that object) still to allow to neutrals the opportunity of furnishing themselves with colonial produce for their own consumption and supply ; and even to leave open, for the present, such trade with his Majesty's enemies as shall be carried on directly with the ports of his Majesty's dominions, or of his allies, in the manner hereinafter mentioned :

His Majesty is therefore pleased further to order, and it is hereby ordered, that nothing herein contained shall extend to subject to capture or condemnation, any vessel, or the cargo of any vessel, belonging to any country not declared by this order to be subjected to the restrictions incident to a state of blockade, which shall have cleared out with such cargo from some port or place of the country to which she belongs, either in Europe or America, or from some free port in his Majesty's colonies, under circumstances in which such trade from such free port is permitted, direct to some port or place in the colonies of his Majesty's enemies, or from those colonies direct to the country to which such vessel belongs, or to some free port in his Majesty's colonies, in such cases, and with such articles, as it may be lawful to import into such free port ; nor to any vessel, or the cargo of any vessel, belonging to any country not at war with his Majesty, which shall have cleared out from some port or place in this kingdom, or from Gibraltar or Malta, under such regulations as his Majesty may think fit to prescribe, or from any port belonging to his Majesty's allies, and shall be

ferred? Certainly, that our administration were under the influence of an unpardonable imbecility, or led on by a blind attachment to the French nation. In either case, their conduct is evidently un-

proceeding direct to the port specified in her clearance; nor to any vessel, or the cargo of any vessel, belonging to any country not at war with his Majesty, which shall be coming from any port or place in Europe which is declared by this order to be subject to the restrictions incident to a state of blockade, destined to some port or place in Europe belonging to his Majesty, and which shall be on her voyage direct thereto; but these exceptions are not to be understood as exempting from capture or confiscation, any vessel or goods which shall be liable thereto, in respect of having entered or departed from any port or place actually blockaded by his Majesty's squadrons or ships of war, or for being enemy's property, or for any other cause than the contravention of this present order.

And the commanders of his Majesty's ships of war and privateers, and other vessels acting under his Majesty's commission, shall be, and are hereby instructed to warn every vessel which shall have commenced her voyage prior to any notice of this order, and shall be destined to any port of France or of her allies, or of any other country at war with his Majesty, or to any port or place from which the British flag as aforesaid is excluded, or to any colony belonging to his Majesty's enemies, and which shall not have cleared out as is herein before allowed, to discontinue her voyage, and to proceed to some port or place in this kingdom, or to Gibraltar or Malta; and any vessel which, after having been so warned, or after a reasonable time shall have been afforded for the arrival of information of his Majesty's order at any port or place from which she sailed, or which, after having notice of this order, shall be found in the prosecution of any voyage contrary to the restrictions contained in this order, shall be captured, and, together with her cargo, condemned as lawful prize to the captors.

And whereas countries, not engaged in the war, have acquiesced in the orders of France prohibiting all trade in any articles the produce or manufacture of his Majesty's dominions; and the merchants of those countries have given countenance and effect to those prohibitions, by accepting from persons styling themselves Commercial Agents of the enemy, resident at neutral ports, certain documents, termed "Certificates of Origin," being certificates obtained at the ports of shipment, declaring that the articles of the cargo are not of the produce or manufacture of his Majesty's dominions, or to that effect:

And whereas this expedient has been directed by France, and submitted to by such merchants, as part of the new system of warfare directed against the trade of this kingdom, and as the most effectual instrument of accomplishing the same, and it is therefore essentially necessary to resist it:

His Majesty is therefore pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that if any vessel, after reasonable time shall have been afforded for receiving notice of his Majesty's order at the port or place from which such vessel shall have cleared out, shall be found carrying any such certificate or document as aforesaid, or any document referring to, or authenticating the same,

justifiable. Had our administration assumed a dignified attitude—had we manifested a determination to punish the first aggression—in all human probability, the retaliating orders of Britain would

such vessel shall be adjudged lawful prize to the captor, together with the goods laden therein, belonging to the person or persons, by whom, or on whose behalf any such document was put on board.

And the Right Honourable the Lords Commissioners of his Majesty's Treasury, his Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty, and Courts of Vice-Admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

At the court of the Queen's Palace, the 11th of November, 1807, present, the King's most excellent Majesty in Council.

Whereas articles of the growth and manufacture of foreign countries cannot by law, be imported into this country, except in British ships, or in ships belonging to the countries of which such articles are the growth and manufacture, without an order in council specially authorising the same :

His Majesty, taking into consideration the order of this day's date, respecting the trade to be carried on to and from the ports of the enemy, and deeming it expedient that any vessel belonging to any country in alliance or at amity with his Majesty, may be permitted to import into this country, articles of the produce or manufacture of countries at war with his Majesty :

His Majesty, by and with the advice of his privy council, is therefore pleased to order, and it is hereby ordered, that all goods, wares, or merchandises, specified and included in the schedule of an act, passed in the forty-third year of his present Majesty's reign, entitled "An Act to repeal the duties of customs payable in Great Britain, and to grant other duties in lieu thereof," may be imported from any port or place belonging to any State not at amity with his Majesty, subject to the payment of such duties, and liable to such drawbacks as are now established by law upon the importation of the said goods, wares, or merchandises, in ships navigated according to law ; and with respect to such of the said goods, wares, or merchandises, as are authorised to be warehoused under the provisions of an act, passed in the forty-third year of his present Majesty's reign, entitled "An Act for permitting certain goods imported into Great Britain, to be secured in warehouses without payment of duty," subject to all the regulations of the said last-mentioned act ; and with respect to all articles which are prohibited by law from being imported into this country, it is ordered that the same shall be reported for exportation to any country in amity or alliance with his Majesty.

And his Majesty is further pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all vessels which shall arrive at any port of the United kingdom, or at the port of Gib.

never have had existence. In vain then do our administration offer the blockading decrees as a justification for their conduct in the adoption of such ruinous measures, in vain urge them as a ground of

raltar or Malta, in consequence of having been warned pursuant to the aforesaid order, or in consequence of receiving information, in any other manner, of the said order subsequent to their having taken on board any part of their cargoes, whether previous or subsequent to their sailing, shall be permitted to report their cargoes for exportation, and shall be allowed to proceed upon their voyages to their original ports of destination, (if not unlawful before the issuing of the said order,) or at any port at amity with his Majesty, upon receiving a certificate from the Collector or Comptroller of the customs at the port at which they shall so enter, (which certificate the said Collectors and Comptrollers of the customs are hereby authorised and required to give,) setting forth that such vessels came into such port in consequence of being so warned, or of receiving such information as aforesaid; and that they were permitted to sail from such port under the regulations which his Majesty has been pleased to establish in respect to such vessels. But in case any vessel so arriving shall prefer to import her cargo, then such vessel shall be allowed to enter and import the same, upon such terms and conditions as the said cargo might have been imported upon, according to law, in case the said vessel had sailed after having received notice of the said order, and in conformity thereto.

And it is further ordered, that all vessels which shall arrive at any port of the United Kingdom, or at Gibraltar or Malta, in conformity and obedience to the said order, shall be allowed, in respect to all articles which may be on board the same, except sugar, coffee, wine, brandy, snuff, and tobacco, to clear out to any port whatever, to be specified in such clearance; and with respect to the last-mentioned articles, to export the same to such ports, and under such conditions and regulations only, as his Majesty, by any license to be granted for that purpose, may direct.

And the Right Honourable the Lords Commissioners of his Majesty's Treasury, his Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

At the court at the Queen's Palace, the 11th of November, 1807, present, the King's most excellent Majesty in Council.

Whereas the sale of ships by a belligerent to a neutral is considered by France to be illegal:

And whereas a great part of the shipping of France and her allies has been protected from capture during the present hostilities by transfers, or pretended transfers, to neutrals:

defence, without producing a single argument or a single effort to prevent them, when in fact, and indeed, by their tame submission, they have invited them; they have been the very cause of their existence.

And whereas it is fully justifiable to adopt the same rule, in this respect, towards the enemy, which is applied by the enemy to this country :

His Majesty is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that in future the sale to a neutral of any vessel belonging to his Majesty's enemies, shall not be deemed to be legal, nor in any manner to transfer the property, nor to alter the character of such vessels : and all vessels now belonging, or which shall hereafter belong to any enemy of his Majesty, notwithstanding any sale, or pretended sale to a neutral, after a reasonable time shall have elapsed for receiving information of this his Majesty's order at the place where such sale, or pretended sale, was effected, shall be captured and brought in, and shall be adjudged as lawful prize to the captors.

And the Right Honourable the Lords Commissioners of his Majesty's Treasury, his Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

At the court at the Queen's Palace, the 25th of November, 1807, present the King's most excellent Majesty in Council.

Whereas his majesty, by his order in council, dated the 11th of Nov. inst. respecting the trade to be carried on with his majesty's enemies, was pleased to exempt from the restrictions of the said order, all vessels which shall have cleared out from any port or place in this kingdom, under such regulations as his majesty may think fit to prescribe, and shall be proceeding direct to the ports specified in the respective clearances; his majesty, taking into consideration the expediency of making such regulations, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all vessels belonging to countries not at war with his majesty, shall be permitted to lade in any port of the United Kingdom, any goods being the produce or manufacture of his majesty's dominions, or East-India goods, or prize-goods, (all such goods having been lawfully imported) and to clear out with, and freely to convey the same to any port or place in any colony in the West-Indies or America, belonging to his majesty's enemies, such port or place not being in a state of actual blockade, subject to the payment of such duties, as may, at the time when any such vessels may be cleared out, be due by law on the exportation of any such goods, or in respect of the same being destined to the ports of the colonies belonging to his

1. Again, is there no difference with respect to the extent of aggression? See the orders of council, and let facts speak for themselves. From the face of these instruments, it is evident that the French

majesty's enemies; and likewise to lade, clear out with, and convey as aforesaid, any articles of foreign produce or manufacture which shall have been lawfully imported into this kingdom, provided his majesty's license shall have been previously obtained for so conveying such foreign produce or manufacture.

And it is further ordered, that any vessel belonging as aforesaid, shall be permitted to lade in any port of the United Kingdom, any goods, not being naval or military stores, which shall be of the growth, produce or manufacture of this kingdom, or which shall have been lawfully imported, (save and except foreign sugar, coffee, wine, brandy, snuff and cotton,) and to clear out with, and freely to convey the same to any port, to be specified in the clearance, not being in a state of actual blockade, although the same shall be under the restrictions of the said order; and likewise to lade, clear out, and convey foreign sugar, coffee, wine, brandy, snuff and cotton, which shall have been lawfully imported, provided his majesty's license shall have been previously obtained for the exportation and conveyance thereof: And it is hereby further ordered, that no vessel shall be permitted to clear out from any port or place of this kingdom to any port or place of any country subjected to the restrictions of the said order, with any goods which shall have been laden (after notice of the said order) on board the vessel which shall have imported the same into this kingdom, without having first duly entered and landed the same in some port or place in this kingdom; and that no vessel shall be permitted to clear out from any port or place in this kingdom to any port or place whatever, with any goods, the produce or manufacture of any country, subjected to the restrictions of the said order, which shall have been laden after notice as aforesaid, on board the vessel importing the same, without having so duly entered and landed the same; on any goods whatever which shall have been laden after such notice in the vessel importing the same, in any port or place of any country subjected to the restrictions of the said order, without having so duly entered and landed the same in some port or place of this kingdom, except the cargo shall consist wholly of flour, meal, grain, or any article or articles the produce of the soil of some country which is not subjected to the restrictions of the said order, except cotton, and which shall have been imported in an unmanufactured state direct from such country into this kingdom, in a vessel belonging to the country from which such goods have been brought, and in which the same were grown and produced.

And it is further ordered, that any vessel belonging to any country not at war with his majesty, may clear out from Guernsey, Jersey, or Man, to any port or place, under the restrictions of the said order, which shall be specified in the clearance, not being in a state of actual blockade, with such articles only, not being naval or military stores, as shall have been legally imported into such islands respectively, from any port or place in this kingdom direct; and with respect to all such articles as may have been imported into the said islands respectively, from any port or place under the restrictions of the said order, it shall not be

edicts embrace more unqualified hostility than those of the British; inasmuch as the former subject to confiscation all American property bound to or from an English port, or met by an English vessel of war,

permitted to any vessel to clear out with the same from any of the said islands, except to some port or place in this kingdom.

W. FAWKENER.

At the court at the Queen's Palace, the 25th November, 1807, present the king's most excellent majesty in council.

Whereas his majesty by his order in council, dated the 11th of Nov. inst. respecting the trade to be carried on with his majesty's enemies, was pleased to exempt from the restrictions of the said order, all vessels belonging to any country not at war with his majesty, together with their cargo, which shall be coming from any port or place in Europe which is declared in the said order to be subject to the restrictions incident to a state of blockade, direct to some port or place in Europe belonging to his majesty, and also, all vessels which shall be cleared out from Gibraltar or Malta, under such regulations as his majesty may think fit to prescribe, and which shall be proceeding direct to the ports specified in their respective clearances

And whereas it is expedient to encourage the trade from Gibraltar and Malta to countries under the restrictions of the said order, subject to regulations to be made in respect thereto; his majesty is therefore pleased to prescribe the following regulations in regard to such trade, accordingly, and by and with the advice of his privy council, to order, and it is hereby ordered, that all sorts of flour and meal, and all sorts of grain, tobacco, and any other articles in an unmanufactured state, being the growth and produce of any country not being subjected by the said order to the restrictions incident to a state of blockade, except cotton, and naval and military stores, which shall have been imported into Gibraltar or Malta, direct from the country where the same were grown and produced, shall, without any license, be permitted to be cleared out to any port or place not being in a state of actual blockade, without the same being compelled to be landed. But neither the said article of cotton, however imported, nor any article which is not the growth, produce, or manufacture of this kingdom, or which has not been imported in a British ship, or from this kingdom direct, except fish, and which shall have been laden at the port of original shipment after the period directed by an order of this date, to be taken as the time at which notice of the said order of the 11th of November, shall be considered as having been received at such port of shipment, shall be permitted to be exported from Gibraltar or Malta, except to some port or place in this kingdom; and all other articles of the growth, produce, and manufacture of this kingdom, or which shall have been imported into Gibraltar or Malta in a British ship, or from some port or place in this kingdom, together with the article of fish, however imported, may be exported to any ports or places in the Mediterranean or Portugal, under such license only as is hereafter directed to be granted by the governors of Gibraltar and Malta respectively.

whilst the latter retaliate only by subjecting to a duty American property bound to or from French ports. Is it of the same importance to the American merchant to lose all his property, or a part? I

And it is hereby further ordered, that licenses be granted by the governor, lieutenant-governor, or other persons having the chief command at Gibraltar, or in Malta respectively, but in his majesty's name, or such person or persons as the said governors, lieutenant-governors, or persons having the chief command shall think fit, allowing such person or persons to export from Gibraltar direct, to any port in the Mediterranean, or to any port of Portugal, or to any port of Spain, without the Mediterranean, not further north than cape Finisterre, and from Malta direct to any port being within the Mediterranean, any articles of the produce or manufacture of his majesty's dominions, and any articles which shall have been imported into Gibraltar or Malta from this kingdom, to whomsoever such articles shall appear to belong (not being naval or military stores) in any vessel belonging to any country not at war with his majesty, or in any vessel not exceeding 100 tons burthen, and being unarmed, belonging to the country to which such vessel shall be cleared and going; and also to import in any such vessel or vessels, as aforesaid, from any port within the Mediterranean, to Gibraltar, or Malta; or from any port in Portugal or Spain as aforesaid, to Gibraltar; such port and such destination respectively to be specified in such license, any articles of merchandise, and to whomsoever the same may appear to belong; such articles to be specified in the bill of lading of such vessel, subject however to such further regulations and restrictions with respect to all or any of the said articles so to be imported or exported, as may be inserted in the said licenses by the governors, lieutenant-governors, or persons having the chief civil command at Gibraltar or Malta, for the time being respectively, as to them shall, from time to time, seem fit and expedient.

And it is further ordered, that in every such license shall be inserted the names and residence of the person or persons to whom it shall be granted, the articles and their quantities permitted to be exported, the name and description of the vessel, and of the master thereof, the port to which the vessel shall be allowed to go, which shall be some place not under actual blockade; and that no license so to be granted, shall continue in force for longer than two months from its date, nor for more than one voyage—or any such license be granted, or acknowledged to be valid, if granted to permit the clearance of any vessel to any port which shall be actually blockaded by any naval force of his majesty or of his allies.

And it is further ordered, that the commanders of his majesty's ships of war and privateers, and all others whom it may concern, shall suffer every such vessel sailing conformably to the permission given by this order, or having such license as aforesaid, to pass and repass, direct between Gibraltar or Malta, and such ports as shall be specified in the license, in such manner, and under such terms, regulations, and restrictions, as shall be expressed therein.

And it is further ordered, that in case any vessel, so sailing as aforesaid, for which such license as aforesaid shall have been granted,

mention these circumstances, not with a view of justifying either, but in order to draw a line of distinction in point of aggression. Had we pursued first those measures which we must ultimately resort

and which shall be proceeding direct upon her said voyage, shall be detained and brought in for legal adjudication, such vessel, with her cargo, shall be forthwith released by the court of admiralty in which proceedings shall be commenced, upon proof being made that the parties had duly conformed to the terms, regulations, or restrictions of the said license; the proof of such conformity to lie upon the person or persons claiming the benefit of this order, or obtaining or using such license, or claiming the benefit thereof.

And it is hereby further ordered, that no vessel belonging to any state on the coast of Barbary shall be prevented from sailing with any articles of the growth or produce of such state, from any port or place in such state, to any port or place in the Mediterranean, or Portugal, such port or place not being actually blockaded by some naval force belonging to his majesty, or his allies, without being obliged to touch at Gibraltar or Malta.

W. FAWKENER.

At the court at the Queen's Palace, 25th of November, 1807, present, the King's most excellent Majesty in Council.

Whereas it has been represented, that it would be expedient to fix certain periods, at which it shall be deemed that a reasonable time shall have elapsed for receiving information at different places, of his Majesty's Orders in Council of the 11th of November instant, respecting the trade with his Majesty's enemies, and their produce and manufactures; his Majesty, taking the same into consideration, and being desirous to obviate any difficulties, that may arise in respect thereunto, and also to allow time for the said order being known to all persons who may be affected thereby, is pleased, by and with the advice of his privy council, to order and declare, and it is hereby ordered and declared, that information of the said order of the 11th of November instant, shall be taken and held to have been received in the places hereinafter mentioned, at the periods respectively assigned to them, namely:

Ports and places within the Baltic, December 21, 1807. Other ports and places to the northward of Amsterdam, December 11, 1807. From Amsterdam to Ushant, December 4. From Ushant to Cape Finisterre, December 3. From Cape Finisterre to Gibraltar, inclusive, December 13. Madeira, December 13. Ports and places within the Straights of Gibraltar to Sicily and Malta, and the West coasts of Italy, inclusive, January 1, 1808. All other ports and places in the Mediterranean beyond Sicily and Malta, January 20. Ports and places beyond the Dardanelles, February 1. Any port of the North and Western coasts of Africa, in the islands adjacent, except Madeira, January 11. The United States and the British possessions in North America and the West-Indies, January 20. Cape of Good Hope and

to, in order to raise our fallen and degraded country, our national misfortunes would never have had existence. What was the advice of Washington in his valedictory address to his fellow-citizens. This

the East coast of South America, March 1. India, May 1. China and the West coast of South America, June 1.

And every vessel sailing on or after that day, from those places respectively, shall be deemed and taken to have received notice of the aforesaid order: And it is further ordered, that if any vessel shall sail within twenty days after the periods above assigned, respectively, from any of the said places, in contravention of the said order of the 11th of November instant, and shall be detained as a prize on account thereof, or shall arrive at any port in this kingdom, destined to some port or place within the restriction aforesaid, order and proof shall be made, to the satisfaction of the court of admiralty, in which such vessel shall be proceeded against, in case the same shall be brought in as a prize, that the loading of the said vessel had commenced before the said periods, and before the information of the said order had actually been received at the port of shipment, the said vessel, together with the goods so laden, shall be restored.

IMPERIAL DECREE.

Rejoinder to his Britannic Majesty's Orders in Council of the 11th of November, 1807.

At our Royal Palace, at Milan, December 17, 1807.

Napoleon, Emperor of the French, King of Italy, and Protector of the Rhenish Confederation—

Observing the measures adopted by the British government, on the 11th of November last, by which vessels belonging to neutral, friendly, or even powers the allies of England, are made liable, not only to be searched by English cruisers, but to be compulsorily detained in England, and to have a tax laid on them of so much per cent on the cargo, to be regulated by the British legislature.

Observing that by these acts the British government denationalizes ships of every nation in Europe, that it is not competent for any government to detract from its own independence and rights, all the sovereigns of Europe having in trust the sovereignties and independence of the flag; that if by an unpardonable weakness, and which, in the eyes of posterity, would be an indelible stain, such a tyranny was allowed to be established into principles, and consecrated by usage, the English would avail themselves of the tolerance of governments to establish the infamous principles, that the flag of a nation does not cover goods, and to give to their right of blockade an arbitrary extension, and which infringes on the sovereignty of every state; we have decreed, and do decree as follows:—

Art. I. Every ship, to whatever nation it may belong, that shall have submitted to be searched by an English ship, or to a voyage to

great good man, with a mind as if guided by divine inspiration, not only predicted those national evils which had befallen us, but by his wholesome advice, pointed out the manner and means by which they might have been prevented.

Speaking of our commerce, he says: "To an active external commerce, the protection of a naval force is indispensable....this is manifest with regard to wars in which a state is itself a party....but besides this, it is in our own experience, that the most sincere neutrality is not a sufficient guard against the depredations of nations at war. To secure respect to a neutral flag requires a naval force, organized and ready to vindicate it from insult or aggression....

England, or that shall have paid any tax whatsoever to the English government, is thereby, and for that alone, declared to be denationalized, to have forfeited the protection of its king, and to have become English property.

Art. II. Whether the ships thus denationalized by the arbitrary measures of the English government, enter into our ports, or those of our allies, or whether they fall into the hands of our ships of war, or of our privateers, they are declared to be good and lawful prizes.

Art. III. The British islands are declared to be in a state of blockade, both by land and sea. Every ship, of whatever nation, or whatsoever the nature of her cargo may be, that sails from the ports of England, or those of the English colonies, and of the countries occupied by English troops, and proceeding to England, or to English colonies, or to countries occupied by English troops, is good and lawful prize, as contrary to the present Decree; and may be captured by our ships of war, or our privateers, and adjudged to the captor.

Art. IV. These measures, which are resorted to only in just retaliation of the barbarous system adopted by England, which assimilates its legislation to that of Algiers, shall cease to have any effect with respect to all nations who shall have the firmness to compel the English government to respect their flag. They shall continue to be rigorously in force as long as that government does not return to the principle of the law of nations, which regulates the relations of civilized states in a state of war. The provisions of the present Decree shall be abrogated and null, in fact, as soon as the English abide again by the principles of the law of nations, which are also the principles of justice and of honour.

All our Ministers are charged with the execution of the present Decree, which shall be inserted in the Bulletin of the Laws.

(Signed)

NAPOLÉON.

By order of the Emperor,

The Secretary of State.

(Signed)

H. B. Maret.

this may even prevent the necessity of going to war, by discouraging belligerent powers from committing such violations of the rights of the neutral party, as may first or last, leave no other option. From the best information I have been able to obtain, it would seem as if our trade to the Mediterranean, without a protecting force, will always be insecure ; and our citizens exposed to the calamities from which numbers of them have but just been relieved.

“ These considerations invite the United States to look to the means, and to set about the gradual creation of a navy. The increasing progress of their navigation promises them, at no distant period, the requisite supply of seamen ; and their means, in other respects, favour the undertaking. It is an encouragement likewise, that their particular situation will give weight and influence to a moderate naval force in their hands. Will it not then be advisable, to begin without delay, to provide and lay up the materials for the building and equipping of ships of war ; and to proceed in the work by degrees, in proportion as our resources shall render it practicable without inconvenience ; so that a future war of Europe may not find our commerce in the same unprotected state in which it was found by the present ? ”

Have not then the administration been forewarned of the dangers to which we were exposed ? Have they been surprized ? No such thing can be alleged. With paternal solicitude for his people, Washington in vain admonished them in his farewell address against the approaching evils ; but alas ! for his fallen country, like the Trojan prophetess,* though he told the truth, he was not believed.

In order to illustrate and exemplify a remark long since made on governments, to wit, that they receive

* Cassandra.

their tone or cast from him who holds the helm. I will now contrast the past times with those of the present.

At the helm of state, like the lofty oak in the forest, Washington was unshaken ; his administration was firm and dignified ; the nation respected at home and abroad, and the people prosperous and happy ; the constitution sound and unimpaired ; the treasury full of money ; talents and virtue cherished. Then, indeed, the arts and sciences, laws and government, religion and morals, formed a solid basis of our compact. Then, indeed, the American character assumed a name, and an attitude amongst nations.

Contrasted with this, what is the reputation of the sage philosopher of Monticello and his administration ? God knows I am no personal enemy to him, nor to any man in existence ; far from it, I think him possessed of talents, of useful information, but they are not of that kind which qualify him for the government of an empire so extensive, so important, and so enterprizing, as that of the United States. In a republic like that of Lacedemon, if there is such in existence, insulated from all kinds of commerce with the world, unacquainted with the luxuries of any clime but its own, and having no temptation to industry or enterprize, I think he might be extremely useful in dealing out some useful precepts of philosophy or temperance, or measuring out with a ladle some dishes of the Spartan soup* to a

* The Spartans ate altogether in public ; and in case any abstained from coming to the tables, they were fined. It was likewise strictly forbidden for any to eat or drink at home before they came to the common meal ; even then each had his proper portion, that every thing might be done there with gravity and decency. The black broth was the great rarity of the Spartans, which was composed of salt, vinegar, blood, &c. so that, in

large family. But, unfortunately, in common with all philosophers, labouring under a constitutional timidity, or a blind attachment to French principles, French philosophy, and the French nation, he has ever been remarked, even in the days of the ordeal trial, for that weakness of nerve, imbecility, and indecision, which now mark his administration. From these, concealed under the imposing mask of democratic simplicity, and the semblance of public economy, have emanated most of our misfortunes. Like the baleful cypress, agitated by every breeze of popularity, ever disposed to gratify the passions of the people, (their greatest enemies) in opposition to their interests; in closing his public career, instead of carrying with him into retirement the reflections of seeing his country happy, prosperous and dignified, he sees her fallen, miserable and degraded.

In order to throw new light on this part of the subject, I will beg leave to recite a letter, written by

our times, it would be esteemed a very unsavoury soup. If they were moderate in their eating, they were so in their drinking also; thirst was the sole measure thereof; and never any Lacedæmonian thought of drinking for pleasure: as for drunkenness, it was both infamous and severely punished; and, that young men might perceive the reason, slaves were compelled to drink to excess, that the beastliness of the vice might appear. When they retired from the public meal, they were not allowed any torches or lights, because it was expected, that men who were perfectly sober, should be able to find their way in the dark: and, besides, it gave them a facility of marching without light; a thing wonderfully useful to them in time of war.

As the poor ate as well as the rich, so the rich could wear nothing better than the poor; they neither changed their fashion nor the materials of their garments; they were made for warmth and strength, not for gallantry and show: and to this custom even their kings conformed, who were nothing gaudy in right of their dignity, but were contented that their virtue should distinguish them rather than their clothes.

one who was second to none in portraying the human character :

“ The gazettes of the day contain ample proof on this subject. All the bitterness of party spirit had poured itself out in the most severe invectives against the heads of the state and treasury departments.

“ The secretary of the treasury was represented as the advocate of “ aristocracy, monarchy, hereditary succession, a titled order of nobility, and all the other mock pageantry of kingly government.” He was arraigned at the bar of the public for holding principles unfavourable to the sovereignty of the people, and for inculcating doctrines insinuating their inability to rule themselves. The theory of the British monarchy was said to have furnished his model for a perfect constitution ; and all his systems of finance, which were represented as servile imitations of those previously adopted by England, were held up to public execration as being intended to promote the favourite project of assimilating the government of the United States to that of Great Britain. With this view, he had entailed upon the nation a heavy debt, and perpetual taxes ; had created an artificial monied interest which had corrupted, and would continue to corrupt the legislature ; and was endeavouring to prostrate the local authorities as a necessary step towards erecting that great consolidated monarchy which he contemplated.

“ To support some of these charges, sentences and parts of sentences were selected from his reports, which expressed the valuable purposes to which a funded debt might be applied, and were alleged to affirm, as an abstract principle, “ that a public debt was a public blessing.” He was, it was added, the inveterate enemy of Mr. Jefferson, because, in the republican principles of that gentleman, he perceived an invincible obstacle to his views.

“ If the counter charges exhibited against the secretary of state were less capable of alarming the fears of the public for liberty, and of directing the resentments of the people against that officer, as the enemy of their rights, they were not less calculated to irritate his personal friends, and to wound his own feelings.

“ The adversaries of this gentleman said, that he had been originally hostile to the constitution of the United States, and adverse to its adoption; and “ that his avowed opinions tended to national disunion, national insignificance, public disorder and discredit.” Under the garb of democratic simplicity, and modest retiring philosophy, he covered an inordinate ambition, which grasped unceasingly at power, and sought to gratify itself, by professions of excessive attachment to liberty, and by traducing and lessening in the public esteem, every man in whom he could discern a rival. To this aspiring temper they ascribed, not only “ those pestilent whispers which, clandestinely circulating through the country, had, as far as was practicable, contaminated some of its fairest and worthiest characters,” but also certain publications affecting the reputation of prominent individuals, whom he might consider as competitors with himself for the highest office in the state. A letter written by Mr. Jefferson to a printer, transmitting for publication the first part of “ the rights of man,” which letter was prefixed to the American edition of that pamphlet, contained allusions to certain “ political heresies” of the day, which were understood to imply a serious censure on the opinions of the vice-president: and the great object of the national gazette, a paper known to be edited by a clerk in the department of state, was “ to calumniate and blacken public characters, and, particularly, to destroy the public confidence in the secretary of the treasury, who was to be hunted

down for the unpardonable sin of having been the steady and invariable friend of broad principles of national government." It was also said, that his connections with this paper, and the patronage he afforded it, authorised the opinion that it might fairly be considered "the mirror of his views," and thence was adduced an accusation not less serious in its nature than that which has been already stated.

"The national gazette was replete with continual and malignant strictures on the great leading measures of the administration, especially those which were connected with the finances. If Mr. Jefferson's opposition to these measures had ceased when they had received the sanction of law, nothing more could have been said, than that he had transgressed the rules of official decorum, in entering the lists with the head of another department, and had been culpable in pursuing a line of conduct which was calculated to sow the seeds of discord in the executive branch of the government, in the infancy of its existence. But when his opposition extended beyond that point, when it was apparent that he wished to *render odious*, and of course to *subvert* (for in a popular government these are convertible terms) all those deliberate and solemn acts of the legislature, which had become the pillars of the public credit, his conduct deserved to be regarded with a still severer eye. It was also said to be peculiarly unfit for a person remaining at the head of one of the great executive departments, openly to employ all his influence in exciting the public rage against the laws and the legislature of the union, and in giving circulation to calumnies against his colleagues in office, from the contamination of which, even the chief magistrate himself could not hope entirely to escape."

Such is the character of the man who holds the helm of government. It now remains for me to take

a glance of the prominent acts of our administration. It is not a little remarkable, that the same spirit of antifederalism which pervaded the Virginia convention, is still inherent in the Virginia politics; for certain it is, the Virginians were not less opposed to the federal government previous to its adoption, than they lately have been to commerce. They have always looked with a jealous eye to the enterprise of the east.

Was it wise or politic in our administration to dismantle that infant navy which was built by the advice of Washington. Would it not now be important to the protection of our commerce? Is it not now necessary to have it re-established?

Was it politic or judicious in the administration to lavish on the French nation the sum of fifteen millions of dollars for the territory of Louisiana, which is likely to become a bane of contention for generations? Have we not millions of acres of land which we have no immediate occasion for? Were we not, by the treaty of Lorenzo with Spain, entitled to the full navigation of the Mississippi, and a place of deposit for our merchandises? * Would not fif-

*Extract from the Treaty of Friendship, Limits and Navigation, between the United States of America and the king of Spain, concluded at San Lorenzo, 27th October, 1795.

Art. IV. It is likewise agreed that the western boundary of the United States, which separates them from the Spanish colony of Louisiana, is in the middle of the channel or bed of the river Mississippi, from the northern boundary of the said states to the completion of the 31st degree of latitude north of the equator. And his Catholic Majesty has likewise agreed that the navigation of the said river, in its whole breadth from its source to the ocean, shall be free only to his subjects and the citizens of the United States, unless he should extend this privilege to the subjects of other powers, by special convention.

Art. XXII. The two high contracting parties, hoping that the good correspondence and friendship which happily reigns between them, will be further increased by this treaty, and that

teen millions of dollars be now important to the people of the United States, either in raising fortifications, or building a navy? Would it not be useful in giving employ to thousands of the labouring part of the community, who are really in want of bread?

Was it wise or politic in our administration to prostrate our judiciary, the bulwark of the American rights, that Palladium which gives security to property, to liberty, and to life?

Was it not cruel and impolitic to send adrift on the wide world, the old soldier, grown grey in the service of his country; him, who badly clad and badly paid, bore the bleak winds of the north, and scorching sands of the south, in order to establish the independence of his country? Will not a policy of this kind check and discourage the patriotic ardour of his children and that of the rising generation?

Was it wise or proper in our administration to import into the United States the reviler of Washington, him whose avowed principles are to overturn all morals, religion and social compact, him whom all Europe has vomited?

Was it consistent with the dignity of an independent nation to suffer a foreign minister to dictate,

it will contribute to augment their prosperity and opulence, will in future give to their mutual commerce all the extension and favour which the advantages of both countries may require.

And in consequence of the stipulations contained in the fourth article, his Catholic Majesty will permit the citizens of the United States, for the space of three years from this time, to deposit their merchandises and effects in the port of New-Orleans, and to export them from thence, without paying any other duty than a fair price for the hire of the stores, and his Majesty promises either to continue this permission, if he finds during that time that it is not prejudicial to the interests of Spain, or if he should not agree to continue it there, he will assign to them, on another part of the banks of the Mississippi, an equivalent establishment.

or even interfere with the arrangements of government ?

Was it republican in our administration to nominate or even recommend a successor to the helm of government ? Is not this an infringement on the freedom of election ? Does not this, in some measure, lead to the principles of an elective monarchy ? Is it not an unconstitutional assumption—at variance with the rights of a free nation ?

Have the late appointments made by the administration been wise or judicious, or do they not create universal dissatisfaction to the people of the United States ? Was it not a breach of public trust to commit the secret of the nation to a man* a swindler by profession ; a man who has defrauded the merchants of New-York of their property ; these are enquiries submitted to the consideration of the American people.

I cannot conclude this subject, without dropping a tear of condolence on the fallen state of a country, destined by nature and providence for a superior rank amongst nations. With a soil and territory unexplored, with a clime calculated for almost every production, with a coast of from 1 to 2,000 miles, with a boundary discouraging to invasion, with an enterprise unrivalled, and with a constitution calculated for happiness ; in her infant state, Phœnix† like, daily

* Captain Haley, lately appointed to carry out the dispatches.

† Phœnix, in ornithology, a bird, famous in antiquity, but generally looked upon by the moderns, as fabulous. The ancients speak of this bird, as single, or the only one of its kind ; they describe it as of the size of an eagle ; its head finely crested with a beautiful plumage, its neck covered with feathers of a gold colour, and the rest of its body purple, only the tail white, and the eyes sparkling like stars : they hold that it lives 500 or 600 years in the wilderness ; that when thus advanced in age, it builds itself a pile of sweet wood and aromatic gums, and fires it

collecting materials for her own destruction. Since the adoption of the Federal government, shall I mention the schisms or the abuses---Republicans, Democrats, Clintonians, Madisonians, Quids, Lewisites, Livingstonites, Burrites, M'Keanites, Rossites, Snyderites, *cum multis aliis*.

For the age of our government, is there a part ever performed in the democracy of Greece or Rome, that we have not imitated to the life? Is there a demagogue we have not seen represented on the stage? Have we not seen the same inflammatory riots and cabals? Have we not the same dissensions, the same scenes of anarchy and confusion? Have we not seen passion triumphant over reason, vice over virtue, ignorance over talents and wisdom, presumption over modesty, and puerile temerity over years and experience? Have we not seen even judicial sanctity intermingled with the gambols of the crowd? In short, have we not seen physical man reduced to the most abject state of all slavery, the slavery of his own passions? Who is there in the United States, of a reflecting mind, in such a state of things, who does not tremble for the Federal government, for himself, for the rising generation and posterity.

CIVIS.

with the wafting of its wings, and thus burns itself; and that from its ashes arises a worm, which in time grows up to be a Phoenix, hence the Phœnicians gave the name of Phœnix to the palm tree; because when burnt down to the root, it rises again fairer than ever.





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